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of 12

IN THE HON'BLE HIGH COURT OF CHHATTISGARH AT
BILASPUR

CIVIL REVISION NO. 64/2003

PETITIONERS
NON-APPLICANTS

1)

Sushil Kumar, son of Shri
Ramsevak Gautam, C/o.
B Pocket A, Group II,
Dilshah Garden, Delhi.

2)

Chhattisgarh Khadi Ashram,
Bajnath Para, Raipur
(Chhattisgarh), through :
Manager, Bajnathpara,
Raipur (Chhattisgarh).

P.R. No. 33/03
Presented by Shri Rajendra M. Shrivastava
dated 06.02.03

VERSUS

RESPONDENT
APPLICANT

(R)

Smt. Chandrawati Devi Dani,
aged about 60 years, Widow
of Late Shri Ram Kumar
Dani, Resident of Danipara,
Purani Basti, Raipur, Tah
and Distt. Raipur
(Chhattisgarh).

CIVIL REVISION UNDER SECTION 23 E OF M.P.
ACCOMMODATION CONTROL ACT 1961 (HEREINAFTER
CALLED THE ACT.

आदेश पत्रक

मामला क्रमांक C.R. 64 सन् 2003

विरुद्ध

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आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	22.09.2003 Shri P.K.C. Tiwari, Counsel for the petitioners. Shri Prashant Mishra, counsel for the Non-applicant. This revision is against the order dated 08.11.2002 passed by the Rent Controlling Authority whereby the application filed for appointment of another Advocate as commissioner has been rejected. The respondent filed a case for eviction as a special category person on the ground of bonafide need. During the pendency of the proceedings, one Shishir Bhandarkar was appointed as Commissioner on 03.10.2003 to examine Shri Rajendra Kumar Gautam who is residing at Delhi. Shri Rajendra Kumar Gautam was said to be examined on commission. However, Shri Bhandarkar could not execute the commission till 24.1.1998. Thereafter, Shri Yogesh Sharma was appointed as Commissioner. For one reason or the other, Shri Sharma also could not execute the commission. It is submitted that Shri Sharma, Advocate shifted to Bilaspur and the application for appointment of another counsel as commissioner was	

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आदेश पत्रक

मामला क्रमांक C.R. 64 सन् 2003

(28)

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित -2-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	filed on the ground that Mr.Sharma has shifted to Bilaspur. It is this application which has been rejected by the impugned order. The Court in its order dated 08.11.2003 noted that 8 years have passed and the Commissioner has not executed. It further stated in view of the provision contained in Section 23(k) of the M.P.Rent Controlling Act, the case has to be decided within 6 months, the parties and their counsel and the Commissioner everybody should co-operate whereas that has not been done. Shri P.K.C. Tiwari, learned counsel appearing for the applicant submitted that even if the commission was not to be executed, the applicants herein should have been given opportunity to produce the witness. He submits that he is ready to produce the witness of his own within 15 days. Shri Mishra learned counsel appearing for the respondent submits that although sufficient time i.e., a period of 8 years has lapsed, the commission could not be executed. On a question raised by this Court that on what point the witness has to be examined, Shri Tiwari submitted that the witness	

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आदेश पत्रक

C.R. 64/03

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आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित - 3 -	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	has to be examined regarding the bona fide need and he is the witness (Rajendra Kumar Gautam) for that purpose. The provisions under section 23A have been enacted with the avowed object of giving speedy justice and to deal with the cases of persons of specified category giving preference. The legislature has stipulated the period of six months for the decision for the authority. It is not now disputed that 13 years have elapsed after the institution of these proceedings. Out of 13 years, 8 years have gone just for commission. The matter cannot be permitted to be dragged like this. Shri Tiwari submits that he will produce the witness realizing the delay, which has occurred because of the non-execution of the commission. It is no doubt that much delay has occurred but simultaneously closure of the evidence on that point also would affect the interest of the petitioners. This court is inclined to grant 7 days' time. Shri Tiwari, however, prays that 15 days' time be granted. It is not opposed. Ends of justice will be served if 15 days' time is granted. Accordingly, 15 days' time is granted to the petitioners to produce and examine the witness Rajendra Kumar Gautam. During this period the authority	

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आदेश पत्रक

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आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित - 4 -	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	concerned will give 15 days' time to the non-applicants/petitioners from the date of receipt/production of a copy of this order to produce the said witness and this witness has to be examined as early as possible, on day to day basis. Dasti summon/notice if ^{affidavit} ~~affidavit~~ be issued by the Authority on affidavit and on the responsibility of the tenant/applicant herein. It is an old matter pending for the last 13 years. Let it be decided by the RCA as early as possible preferably within one month from the date of receipt/production of a copy of this order. With this observation, this revision stands disposed of. A copy of this order be sent to the Rent Controlling Authority, Raipur, for compliance. C.C. as per rules.	Sd/- Fakhruddin Judge

Rec/-

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